

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of C.B.D, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LESLIE CARL GRAHAM,

Respondent-Appellant,

and

KATHY DAVIS,

Respondent.

In the Matter of C.B.D, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KATHY DAVIS,

Respondent-Appellant,

and

LESLIE CARL GRAHAM

Respondent.

Before: Cooper, P.J., and Sawyer and Murphy, JJ.

UNPUBLISHED

May 22, 2003

No. 244388

Wayne Circuit Court

Family Division

LC No. 00-392610

No. 244599

Wayne Circuit Court

Family Division

LC No. 00-392610

PER CURIAM.

In these consolidated appeals, respondents both appeal as of right the trial court's order terminating their parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (c)(i), (g) and (j). We affirm.

Respondent Graham argues that the trial court erred in finding that the statutory grounds for termination were established by clear and convincing evidence. We disagree.

The court in this case did not clearly err in finding that the statutory grounds for termination set forth in MCL 712A.19b(3)(c)(i) were established by clear and convincing evidence. MCR 5.974(A) and (F)(3); *In re Miller*, 433 Mich 331, 337, 344-345; 445 NW2d 161 (1989). The conditions that led to the child's adjudication were inadequate housing and domestic violence. Throughout the two years this case was pending, respondent Graham failed to obtain a job or a consistent source of lawful income. Moreover, he did not attend domestic violence counseling as per the parent agency agreement nor did he provide proof of suitable housing. Thus, we find no clear error with the trial court's determination that the conditions that led to adjudication continued to exist without any reasonable expectation that they would be rectified within a reasonable period of time, given the child's age. Because the trial court needed clear and convincing evidence of only one statutory ground to support its termination order, we need not address the remaining grounds for termination. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Further, because at least one ground for termination was established, the court was required to terminate respondent Graham's parental rights unless the court found that termination was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000). On this record, we conclude that the court's finding regarding the child's best interests was not clearly erroneous. *Trejo, supra*.

Respondent Davis challenges the court's authority to terminate her parental rights absent an order adjudicating the child a temporary ward of the court. Because respondent Davis never challenged the court's authority to proceed at any of the hearings below, our review is limited to plain error affecting her substantial rights. See *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

Although respondent may properly attack the court's *subject matter* jurisdiction at any time, she may not collaterally attack the court's *exercise* of jurisdiction in a later appeal from an order terminating her parental rights. See *In re Hatcher*, 443 Mich 426, 438-439; 505 NW2d 834 (1993). The only exception to this rule is where jurisdiction is exercised without any supportive legal evidence. *Id.* at 440-441. In this case, however, the court's exercise of jurisdiction was based on respondent Davis' own admissions. Specifically, respondent Davis acknowledged that there was no running water in the home and that the gas had been shut off due to unpaid bills. She further admitted that the child witnessed domestic violence in the home. Thus, because there was ample evidence to support the court's exercise of jurisdiction under MCL 712A.2(b)(2), respondent Davis is precluded from attacking it on appeal.

While the trial court failed to strictly follow the procedures set forth in the statute and the court rules, appellate relief is not warranted.¹ A factual basis for the court's jurisdiction was clearly established and respondent's due process rights were sufficiently protected by the several dispositional review hearings conducted. Moreover, if respondent Davis believed that the court's failure to timely enter a dispositional order adjudicating the child a temporary court ward prejudiced her rights or affected the court's authority, she had several opportunities to raise these issues below. A respondent may not harbor error as an appellate parachute. See *People v Shuler*, 188 Mich App 548, 551-552; 470 NW2d 492 (1991).

Affirmed.

/s/ Jessica R. Cooper
/s/ David H. Sawyer
/s/ William B. Murphy

¹ Contrary to respondent Davis' argument, the referee made findings of fact and recommendations, pursuant to MCL 712A.10(1)(c), on February 13, 2001. Those findings and recommendations, while untimely, comprised the dispositional order required by MCR 5.973(A)(5)(a) and MCL 712A.18(1). See also MCL 712A.18f(1). We further note that while the referee failed to timely conduct a dispositional hearing as required by MCR 5.973(A)(2), the court held several subsequent dispositional hearings where services were ordered and placement was continued. See MCR 5.973(B).